

1136

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

08 AUG -4 AM 10:20

UNITED STATES OF AMERICA,

Plaintiff,

v.

Ivan LEYVA-Torres,

Defendant

Magistrate Docket

08 MJ 2411

COMPLAINT FOR VIOLATION OF DEPUTY

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about **August 2, 2008** within the Southern District of California, defendant, **Ivan LEYVA-Torres**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


 SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol AgentSWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **4th DAY OF AUGUST 2008**.
 at 9:45 a.m.

 Ruben B. Brooks
 UNITED STATES MAGISTRATE JUDGE

DOA 8/2/08 EU

MS

CONTINUATION OF COMPLAINT:**Ivan LEYVA-Torres****PROBABLE CAUSE STATEMENT**

On Saturday, August 2, 2008, at approximately 10:30 p.m., Supervisory Border Patrol Agent (SBPA) J. F. Hayes was conducting line watch duties near Tecate, California. Agent Hayes was checking his area for foot-prints on Emery Road north from the Tecate Port of Entry when he observed a large amount of fresh footprints crossing Emery Road. This area is approximately one tenth of a mile east of the Tecate, California Port of Entry and approximately one mile north of the Mexico / United States International Border.

Agent Hayes followed the footprints west into the creek bed and within ten minutes encountered 21 individuals hiding in a gully. The group had concealed themselves from overhead view by piling dry brush on top of their position. A short distance away from the main group, Agent Hayes found two other individuals, one of whom was later identified as the defendant **Ivan LEYVA-Torres**, hiding under a small tree. Agent Hayes identified himself as a United States Border Patrol Agent and questioned each of the 23 individuals regarding their citizenship and nationality. All 23 individuals, including LEYVA-Torres, freely admitted that they were citizens and nationals of Mexico without any immigration documents they would allow them to enter into or remain in the United States legally. Agent Hayes arrested all 23 individuals and had them transported to the Tecate Processing Center.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on May 2, 2008 through San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.